

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No. 2028 of 1998

Date of decision : 27.01.2010

Municipal Committee, Sangrur

....Petitioner

V/s

Sub Divisional Officer (Civil) Sangrur and another

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. B.S. Wasu, Advocate
for the petitioner.

Mr. O.P. Dabala, Deputy Advocate General, Punjab.

RAJAN GUPTA J. (ORAL)

This is a petition under Articles 226/227 of the Constitution of India praying for writ in the nature of certiorari for quashing the order dated 24.07.1987, Anneuxre P-2 passed by Sub Divisional Officer (Civil) Sangrur while exercising the power of Appellate Authority under the Punjab Municipal Act, 1911.

The assessment in question relates to residential property situated within the municipal limits of Sangrur. The property is stated to be owned by respondent No. 2. At the time of assessment of house tax, a notice was issued to him by Executive Officer, Municipal Committee, Sangrur. After hearing the objections, the annual rental value was determined at Rs. 3000/- for the rented portion and Rs. 3,000/- for self

occupied portion vide assessment order dated 28.01.1987 (Annexure P-1). Respondent No. 2 appealed against the said order before the Sub-Divisional Officer (Civil), Sangrur. But after hearing the parties, Sub-Divisional Officer (Civil) observed that no portion of house was let-out. He, thus, set-aside the assessment order in so far it pertained to portion purportedly let out and reduced the assessment in respect of self occupied portion from Rs. 3,000/- to Rs. 28,00/-. Learned counsel for the petitioner has argued that the order passed by the appellate authority is unsustainable. According to him, the authority could not have exempted the rented portion from assessment of house tax. He has also assailed the finding of appellate court to the effect that house was not rented out. Learned counsel, therefore, prays that matter may be remanded back to the same authority for decision afresh.

No reply has been filed on behalf of the respondents. The prayer for remand is, however, not opposed by learned State counsel.

I have heard counsel for the parties and given careful thought to the facts of the case.

From the order passed by appellate authority, it is not clear whether the assessment order was passed in respect of entire residential property in question or part thereof, nor is it specified how a finding of fact was arrived at by the appellate authority that the house was not rented out.

Under the circumstances, this court accepts the prayer made by counsel for the parties that the matter be remanded back to the same authority for decision afresh. Resultantly, impugned order dated 24.07.1987, Annexure P-2 passed by appellate authority is hereby set-aside. The matter is remitted back to the same authority for taking a fresh decision after

hearing the parties. The parties are directed to remain present before the appellate authority on 05.03.2010.

With the above said observations, the writ petition is allowed.

January 27, 2010
Ajay

(RAJAN GUPTA)
JUDGE